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TAGS: [PGOV](#) [PREL](#) [PHUM](#) [PTER](#) [KCRM](#) [SNAR](#) [MX](#)
SUBJECT: CALDERON SEEKS LEGAL AUTHORITIES FOR MILITARY
COUNTER NARCOTICS DEPLOYMENTS

Classified By: Acting Political Minister Counselor James P. Merz for
reasons 1.4 (b) and (d)

11. (SBU) Summary. In late April, President Calderon proposed legislation to reform the National Security Act to strengthen the government's stance against organized crime and provide a firmer legal framework for the military's role in the fight against drug cartels. One of the most important changes he proposed would give the president the authority to declare a threat to domestic security and thereby allow him to use the military as the primary agent in addressing serious domestic conflicts. Currently, the military is deployed in various parts of Mexico, most notably in Ciudad Juarez, to combat drug related crime, but there is much debate as to the legality of these deployments. The bill proposed by Calderon would authorize such efforts and give the president the power to use the military under additional scenarios. However, the expansion of the role of the military in domestic affairs could create controversy when Congress reconvenes and debates this bill in September. Some argue it would give the President excessively broad powers to deploy soldiers internally and others worry about human rights violations by the military. In contrast, the administration insists the proposed reform provides the government with basic tools to fight cartels. End Summary.

Determining a Threat to Domestic Security

12. (U) As with many elements of Mexico's constitutional framework in the area of security, there is a lack of clarity on the use of the military inside Mexico during times of peace. The constitutional conflict exists between articles 89 and 129. While article 89 gives the president the power over the Armed Forces for the "internal security and external defense of the federation," article 129 states that in times of peace, the military must remain on domestic bases. This ambiguity pits the president's ability to deploy the military in matters of domestic security against the Constitution's confinement of the military to its domestic bases. Since the onset of robust military deployments against organized crime in late 2006, Mexicans have debated the constitutionality of this element of the President's security strategy. This reform seeks to put an end to the debate by creating a procedure to declare a threat to domestic security. This declaration allows the president to appoint the military as the primary agent responding to a crisis. The following five conditions could warrant such declaration:

- an uprising or rebellion by a federal entity.
- direct, aggressive threats against institutions or members of the National Security Council or other organizations and entities recognized by the law and the Federal Executive.
- any acts that endanger the peace or public security of a

municipality, federal entity or region

-- acts of collective extortion that affect a community or population.

-- any other situation that, by not being addressed immediately, could result in a serious disturbance to public peace and order or could put the society in grave danger.

13. (U) According to the proposed legislation, the president must follow the recommendation from the National Security Council. In the case of a perceived threat to domestic security, the Council's Executive Secretary will submit a written declaration to the Council for review. The Council reviews the threat on the basis of

-- its magnitude;

-- the ability of appropriate institutions to address it;

-- information about society's perception of the issue;

-- the type and duration of proposed responses;

-- the institution that would be assigned lead responsibility for addressing the threat along with those entities that would provide support.

A Bicameral Commission, a standing congressional committee on national security matters made up of three Senators and three Deputies, also evaluates the threat. Once all assessments are complete and the conclusion that a threat to domestic security exists, the Executive Secretary of the Security Council submits the recommendation to the president.

The Expanded Authorities Devolving From a Threat Declaration

14. (SBU) Once the President declares a threat to domestic security, he has the authority to appoint the military as the lead response organization. The Armed Forces will enjoy enhanced powers over federal, state and local police forces. Additionally, they can request assistance from other public or private institutions pertinent to the resolution of the situation. The legislation grants the Armed Forces the authority to collect and retain intelligence associated with the threat as well information on Mexican citizens they believe to be connected. (Note: Raul Benitez, an academic and expert on security issues, indicated that this part of the legislation was based on the U.S. Patriot Act. While he believes Mexico's drug cartels and transnational terrorists are not similar entities, the drafters of this reform apparently believe the U.S. Patriot Act provides a credible foundation to enhance the authorities of the military and the intelligence community in the face of a significant threat to domestic security. End Note.)

15. (SBU) Several NGOs and civic institutions worry that these new enhanced intelligence collection capabilities will contribute to human rights abuses and civil liberty violations. Noting the military's record for non-transparency, representatives from the human rights organization Centro PRODH told Poloff that they worry about the lack of oversight by federal agencies to ensure that the military uses its new intelligence gathering within prescribed guidelines. For their part, proponents of the legislation maintain they are merely seeking to provide the military with the basic investigative tools it needs to be successful in investigating and apprehending individuals implicated in organized criminal activities.

What Does This All Mean?

16. (C) If the president is granted the power to use the military in domestic conflicts, it will not only strengthen his power but it will also strengthen the role of the National Security Council. Raul Benitez argues Mexico does not have a true National Security Council. Instead, the President has traditionally called select members of his cabinet together on an ad hoc basis to discuss a particular issue. This newest reform gives the National Security Council the enhanced power of authorizing a threat to domestic security. The bill also requires more formal coordination and information sharing between the Council and other security agencies, in particular the National System

for Public Security (SNSP). These formal procedures for action and information sharing could contribute to a better functioning security council.

¶17. (SBU) Separately, many POL contacts believe that Jorge Tello Peon of the National System of Public Security and Monte Alejandro Rubido Gracia of the National Security Council, could capitalize on a strengthened national security apparatus. Even though the SNSP is not a member of the National Security Council, many believe that in his coordinating capacity Tello Peon will be able to exercise increased influence over the council. Meanwhile, a stronger, more formalized Security Council will also increase the power of its Technical Secretary, Rubido.

¶18. (C) Benitez notes that while the military publicly shies away from an enthusiastic embrace of its role as a primary agent in the fight against the cartels, behind closed doors it relishes the opportunity for a wider role in this battle. He believes the military will look to use this kind of reform to claim a higher degree of autonomy in its dealings with the president and congress. He also opined that once assigned wider responsibilities in tackling internal threats consistent with Mexican law, the military would exercise greater sway in making the case that taking up peace keeping operations in places such as Haiti constitutes a distraction.

Congressional Dynamics

¶19. (C) Jorge Justiniano Gonzalez Betancourt, a former 3-star General in the Mexican Army and the outgoing President of the Chamber of Deputies' National Defense Committee, maintained that there is strong support amongst the PRI and the PAN on this reform and expressed his confidence that bill would pass when Congress reconvenes in September. Emboldened by their recent win in the July 5 mid-term elections,

however, some PRI leaders have spoken to the need to limit the power of the presidency and emphasize a "softer" approach to Mexico's law enforcement challenges by expanding social development programs. PRI will be averse to insisting Calderon recall his deployment of the military, but PRI officials will probably be reluctant to make a move that could strengthen presidential authority. They will also want to see the president take steps to demonstrate a genuine commitment to transition the military out of its domestic law enforcement function over time. No doubt PRD will similarly have misgivings about establishing a firmer legal groundwork for a long term deployment of the military.

¶10. (C) Comment. Adoption of the proposed National Security Law would effectively end all debate over the president's authority to deploy the military in response to a threat to internal security. Of course, the devil is in the details. The president's proponents would like to enhance the military's role significantly while detractors worry about giving the military a large role in intelligence collection and expanding the authority of the Executive Secretary of the Secretariat of Public Security and the Technical Secretary of the National Security Council. If the president hopes to secure passage of this bill, he will almost certainly have to sacrifice some of the authorities that executive office would accrue under the current draft. Should the opposition parties, however, seek to use this bill to apply strict limits on his authorities and/or transfer some authorities for deploying the military to Congress, the President may just decide he is better off relying on the ambiguity embodied in the existing Constitutional provisions on this matter.

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